

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                       |   |                                   |
|---------------------------------------|---|-----------------------------------|
| -----X                                | : |                                   |
|                                       | : |                                   |
| INNOVATIVE CUSTOM BRANDS INTL., INC., | : | Civil Action No. 04 CV 2937 (RJH) |
|                                       | : |                                   |
| Plaintiff,                            | : |                                   |
|                                       | : |                                   |
| -against-                             | : | AFFIDAVIT IN SUPPORT OF           |
|                                       | : | DEFENDANTS' MOTION TO             |
|                                       | : | <u>DISMISS THE COMPLAINT</u>      |
| SOLE CITY, INC., SOLOMON SAFDEYE,     | : |                                   |
| ALAN KANDALL, JEFFREY BERNSTEIN and   | : |                                   |
| MARC DOLCE,                           | : |                                   |
|                                       | : |                                   |
| Defendants.                           | : |                                   |
|                                       | : |                                   |
| -----X                                |   |                                   |

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK )

**ADAM M. COHEN**, being duly sworn, deposes and says:

1. I am a member of the law firm of Kane Kessler, P.C., the attorneys for defendants Sole City, Inc. ("Sole City"), Solomon Safdeye ("Safdeye") and Alan Kandall ("Kandall") (collectively, the "Defendants") in the above-captioned matter and, as such, I have personal knowledge of the facts and circumstances set forth herein.

2. I respectfully submit this affidavit in support of Defendants' motion to dismiss the complaint of plaintiff Innovative Custom Brands Intl., Inc. ("Plaintiff") pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. Annexed hereto as Exhibit "A" is a true and correct copy of the Summons and Complaint filed by Plaintiff.

4. Annexed hereto as Exhibit "B" is a true and correct copy of a License Agreement entered into between Plaintiff and Sole City on or about September 1, 2002.

5. Annexed hereto as Exhibit "C" is a true and correct copy of a Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiff's Third and Fourth Claims for Relief, which has been filed with this Court in a case titled Full Creative, Ltd. d/b/a I.C.B. Asia, Co., Ltd. v. Sole City, Inc. et al., Docket No. 04 Civ. 02907.

**s/Adam M. Cohen**

Adam M. Cohen

Sworn to before me this 26<sup>th</sup>  
day of May, 2004

**s/Maria Mahon**

*Maria Mahon*

*Notary Public 01MA5074058*

*Exp 03/10/07*

*State of New York*